IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 13TH APRIL 2007 / 23RD CHAITHRA 1929

WP(C).No. 13037 of 2007(B)

PETITIONER:

M/S. GKS BUSINESS ASSOCIATES (P) LTD.,
GKS COMPLEX, AROOR FERRY ROAD, AROOR,
ALLEPPEY, PIN-688 534,
THROUGH ITS COUNSEL
C.K.KARUNAKARAN, ADVOCATE, COCHIN-16.

BY ADV. SRI.C.K.KARUNAKARAN
SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY
SECRETARY, DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE, SOUTH BLOCK, NEW DELHI.

2. THE COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, COCHIN-9.

3. THE ASSISTANT COMMISSIONER OF
CUSTOMS (REFUNDS), CUSTOM HOUSE, COCHIN-9.

BY ASS.SOLICITOR GENERAL SRI.JOHN VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 13037 OF 2007 B

Dated this the 13th day of April, 2007

J U D G M E N T

The petitioner admits that they have got a remedy by way of appeal against the impugned order. What they would submit is that since the levy itself is illegal and void, they are entitled to challenge the same in a petition under Article 226 of the Constitution of India. The petitioner also refers to the decision of the Supreme Court reported in **Mafatlal Industries Limited** v. **Union of India** (1997 (89) ELT 247). However, I am of the opinion that all these contentions raised by the petitioner can be raised before the Appellate Authority who is empowered to consider all these contentions and give reliefs to the petitioner if the contentions are accepted by the Appellate Authority. That being so, I am not inclined to entertain this writ petition. Therefore, without prejudice to the right of the petitioner to seek their remedies by way of appeal, the writ petition is dismissed.

Sd/-

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:13-02-2007